

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

TROY M. HURD,

Plaintiff,

v.

THE CITY OF LINCOLN,

Defendant.

Case No. 4:16-cv-03029

**QUALIFIED PROTECTIVE ORDER  
REGARDING PROTECTED  
HEALTH INFORMATION**

After considering Parties' Joint Stipulation for Qualified Protective Order, pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and with good cause having been shown, the Court hereby grants Parties' Joint Stipulation.

**IT IS THEREFORE ORDERED** that a Qualified Protective Order is necessary to protect the privacy interests, and particularly the protected health information, of third parties in accordance with HIPAA and specifically 45 C.F.R. § 164.512(e)(1)(ii)(B).

In order to protect the protected health information of individuals in accordance with 45 C.F.R. § 164.512(e)(1)(ii)(B), it is ordered that:

1. Parties and their attorneys are hereby authorized to receive, subpoena, transmit or testify to "protected health information" pertaining to RSI procedures performed in April 2012 ("PHI"). The data, statistics, and any supporting documentation are subject to the conditions outlined herein. Any PHI produced will be designated, "Confidential Protected Health Information".

2. For the purposes of this qualified protective order, "protected health information" shall have the same scope and definition as set forth in 45 C.F.R. § 160.103 and 164.501. Protected health information includes, but is not limited to, health information, including demographic information, relating to either (a) the past, present, or future physical or mental condition of an individual, (b) the provision of care to an individual, or (c) the payment for care provided to an individual, which identifies the individual or which reasonably could be expected to identify the individual.

3. All "covered entities" (as defined by 45 C.F.R. § 160.13) or their business associates are hereby authorized to disclose protected health information to attorneys representing Plaintiff and Defendant in the above-captioned litigation. Parties agree to comply with the minimum necessary requirements set forth in 45 C.F.R. 164.514.

4. Parties recognize that it may be necessary during the course of this litigation to produce, receive, subpoena, and transmit PHI of current and future parties, third-parties, and non-parties to other parties, third-parties, and nonparties and their attorneys and representatives.

5. Notwithstanding federal or state law limiting Parties' and Covered Entities' and their Business Associates' authority to disclose PHI, Parties and Covered Entities and their Business Associates are permitted to release all PHI in their possession in response to a subpoena, discovery request or other lawful process, provided the PHI is relevant to the issues presented in this litigation.

6. Parties agree not to use or disclose the PHI released for this lawsuit for any other purpose or in any other proceeding.

7. Parties are permitted to use the PHI in any manner that is reasonably connected with this lawsuit. This includes, but is not limited to, disclosures to Parties, their attorneys of record, the attorney's firms (i.e., attorneys, support staff, agents, and consultants), Parties' insurers, experts, consultants, court personnel, court reporters, copy services, trial consultants, jurors, venire members, and other entities involved in the litigation process.

8. Parties agree that within ninety (90) days of the issuance of a final order, or the extinguishment of all appeals, all Signatories that obtained PHI during the course of this lawsuit shall destroy said PHI or return it to the covered entity from which it obtained the PHI.

9. Parties shall also continue to requirements of the Stipulated Protective Order entered by the Court on September 29, 2016 (Doc. #25).

TROY HURD, Plaintiff

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and

CITY OF LINCOLN, Defendant

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SIGNED this 16th day of October, 2018.

s/ Richard G. Kopf

Senior United States District Judge